

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MICHELLE GOMEZ,

Plaintiff,

v.

KATHY CIUFFINI,

Defendants.

Case No. 1:23-cv-01696-NODJ-EPG

FINDINGS AND RECOMMENDATIONS
THAT PLAINTIFF’S COMPLAINT BE
DISMISSED

OBJECTIONS, IF ANY, DUE WITHIN
TWENTY-ONE DAYS

(ECF No. 1)

ORDER STAYING LITIGATION PENDING
RESOLUTION OF FINDINGS AND
RECOMMENDATIONS AND VACATING
INITIAL SCHEDULING CONFERENCE

Michelle Gomez (“Plaintiff”), proceeding *pro se*, initiated this action by filing a complaint on December 8, 2023.¹ (ECF No. 1). Plaintiff alleges claims against Defendant Kathy Ciuffini, a state court judge, for violations of the First, Fifth, Ninth, and Fourteenth Amendments pursuant to 42 U.S.C. §1983. Plaintiff’s claims challenge the state court decision rendered by Defendant regarding Plaintiff’s application to place her mother in a conservatorship and Plaintiff’s petition as beneficiary.

¹ Plaintiff has paid the applicable filing fee. On December 18, 2023, the Clerk’s office issued summons and new case documents. (ECF Nos. 3 & 4). Plaintiff has also filed a motion for permission to use electronic case filing (ECF No. 2), which the Court will address in a separate order.

1 Upon review of Plaintiff's complaint, the Court finds that Plaintiff's claims are barred by
2 the doctrine of judicial immunity and the Eleventh Amendment. Thus, the Court recommends that
3 Plaintiff's complaint be dismissed. Further, because amendment cannot cure these defects, the
4 Court also recommends that Plaintiff not be given leave to amend.

5 **I. SUMMARY OF PLAINTIFF'S COMPLAINT**

6 Plaintiff alleges that the Court has jurisdiction of this matter under 42 U.S.C. § 1983 based
7 on violations of rights protected by the First, Fifth, Ninth, and Fourteenth Amendments. (ECF
8 No. 1, p. 3). Plaintiff seeks to sue Defendant Kathy Ciuffini, a state court judge, in her official
9 capacity. (*Id.*, p. 2).

10 Plaintiff alleges that Defendant violated her constitutional rights under color of federal
11 law "[b]y violating the petitioner's due process." (*Id.*, p. 4). Plaintiff alleges that Defendant
12 "obstructed the submission of evidence and the admission of witness declarations intended to
13 support the petition presented to the courts," "denied the petitioner a fair and impartial hearing on
14 the petition by not ensuring a comprehensive and equitable review," and "penalized the petitioner
15 for exercising her beneficiary rights by imposing an excessively severe financial judgment against
16 her." (*Id.*)

17 Plaintiff alleges that between 2022-2023 she "initiated a Conservatorship of the Person
18 application on behalf of her mother, Tulia Gomez" in the Superior Court of California, Kings
19 County (*Id.*) Plaintiff alleges that "the petition never underwent proper consideration." (*Id.*)
20 Plaintiff alleges that "[d]espite the petitioner's earnest attempt to present evidence and witness
21 testimonials supporting the petition, the defendant consistently denied such submissions." (*Id.*)

22 Plaintiff further alleges as follows:

23 The petitioner voiced concerns about fraud, financial hardships, elder abuse, and
24 medical neglect, yet these critical issues were not afforded a fair and impartial
25 hearing. Subsequently, the petitioner, invoking her beneficiary rights, sought a
26 comprehensive estate accounting. In response, the defendant not only neglected to
27 compel the opposing side to produce necessary documents but also imposed a
28 judgment against the petitioner, resulting in a substantial financial burden. Due to
this negligence, Tulia Gomez, diagnosed with dementia, currently resides in a
facility ill-equipped to provide adequate care for someone with such medical
needs.

(*Id.*)

Plaintiff alleges that she has suffered the following injuries related to the above events:

1 “Mental and Emotional Duress- Pastoral Counseling, Deprivation of Civil Rights- Pastoral
2 Counseling, Oppression- Pastoral Counseling.” (*Id.*, p. 5).

3 Plaintiff seeks monetary and punitive damages. Plaintiff also seeks the following relief
4 from the Court:

5 Liberate me from the burdens imposed by the defendant’s mistakes. Grant relief
6 from the restriction of my mother in a facility that lacks the appropriate care for
7 her medical condition. Revoke the unjust judgment that has inflicted financial
8 hardships and oppression upon the petitioner. Declare the defendant responsible
9 for the injuries and violations outlines in this petition. Additionally, provide any
10 necessary compensation for the distress, oppression, and infringements on my
11 person and rights caused by the defendant.

12 (*Id.*)

13 **II. LEGAL STANDARDS**

14 The Court may dismiss a complaint *sua sponte* for failure to comply with Federal Rule of
15 Civil Procedure 12(b)(6). *See Wong v. Bell*, 642 F.2d 359, 361–62 (9th Cir. 1981) (citing 5 C.
16 Wright & A. Miller, Federal Practice and Procedure § 1357 at 593 (1969)); *see also Omar v. Sea-*
17 *Land Service, Inc.*, 813 F.2d 986, 991 (9th Cir. 1987) (“A trial court may dismiss a claim *sua*
18 *sponte* under Fed. R. Civ. P. 12(b)(6). Such a dismissal may be made without notice where the
19 claimant cannot possibly win relief”) (citing *Wong*, 642 F.2d at 361-62). A case “fits within
20 *Wong*” when it “raises nearly indecipherable claims that, to the extent they are decipherable, are
21 frivolous, do not give rise to federal court jurisdiction, or name parties who enjoy absolute
22 immunity. *Parker v. Arizona*, No. CV-21-01143-PHXDJH, 2021 WL 3623148, at *1 (D. Ariz.
23 Aug. 9, 2021), *appeal dismissed*, No. 21-16325, 2021 WL 6884870 (9th Cir. Dec. 8, 2021).

24 **III. ANALYSIS OF PLAINTIFF’S COMPLAINT**

25 Upon review of Plaintiff’s complaint, the Court finds that Plaintiff’s claims against
26 Defendant are subject to *sua sponte* dismissal because Defendant is entitled to judicial immunity
27 and because Plaintiff’s claims are barred by the Eleventh Amendment. Thus, the Court will
28 recommend that Plaintiff’s claims be dismissed.

29 **A. Judicial Immunity**

30 Plaintiff’s claims against Defendant are barred by the doctrine of judicial immunity.

31 “Anglo–American common law has long recognized judicial immunity, a sweeping form
32 of immunity for acts performed by judges that relate to the judicial process.” *In re Castillo*, 297

1 F.3d 940, 947 (9th Cir. 2002) (internal quotations omitted). Absolute judicial immunity is “an
 2 immunity from suit, not just from ultimate assessment of damages.” *Mireles v. Waco*, 502 U.S. 9,
 3 11 (1991). “Absolute immunity fails to attach to judicial officers only when they act clearly and
 4 completely outside the scope of their jurisdiction.” *Demoran v. Witt*, 781 F.2d 155, 158 (9th Cir.
 5 1985) (internal citations omitted). “Allegations of malice or bad faith in the execution of the
 6 [judicial] officer's duties are insufficient to sustain the complaint when the officer possesses
 7 absolute judicial immunity.” *Id.* Judicial immunity applies in actions brought under § 1983.
 8 *Stump v. Sparkman*, 435 U.S. 349, 356 (1978).

9 Here, Plaintiff asserts claims against a state court judge for judicial acts performed in her
 10 role as a judge. Because Plaintiff’s allegations against Defendant are related to the judicial
 11 process, Plaintiff’s claims against Defendant are barred by the doctrine of judicial immunity.
 12 Thus, Plaintiff fails to state a claim upon which relief can be granted.

13 **B. Sovereign Immunity**

14 Plaintiff’s claims against Defendant are also barred by the Eleventh Amendment.

15 “The Eleventh Amendment bars individuals from bringing lawsuits against a state for
 16 money damages or other retrospective relief.” *Arizona Students’ Ass’n v. Arizona Bd. of Regents*,
 17 824 F.3d 858, 864 (9th Cir. 2016); *see also Aholelei v. Dep’t of Public Safety*, 488 F.3d 1144,
 18 1147 (9th Cir. 2007) (“The Eleventh Amendment bars suits for money damages in federal court
 19 against a state, its agencies, and state officials acting in their official capacities.”). “State officials
 20 sued in their official capacities are generally entitled to Eleventh Amendment immunity.” *Lund v.*
 21 *Cowan*, 5 F.4th 964, 969 (9th Cir. 2021). The Eleventh Amendment applies to state court judges.
 22 *See id.* (“The Eleventh Amendment thus applies to Judge Cowan, who serves as a state court
 23 judge and is being sued in his official capacity.”); *see also Simmons v. Sacramento Cty. Superior*
 24 *Ct.*, 318 F.3d 1156, 1161 (9th Cir. 2003) (“Plaintiff cannot state a claim against the Sacramento
 25 County Superior Court (or its employees), because such suits are barred by the Eleventh
 26 Amendment.”).

27 “The Eleventh Amendment does not permit retrospective declaratory relief.” *Lund*, 5
 28 F.4th at 969 (citing *Arizona Students’ Ass’n*, 824 F.3d at 865). “[I]n general, ‘relief that in essence
 serves to compensate a party injured in the past by an action of a state official in his official

1 capacity that was illegal under federal law is barred even when the state official is the named
2 defendant,’ while ‘relief that serves directly to bring an end to a present violation of federal law is
3 not barred by the Eleventh Amendment even though accompanied by a substantial ancillary effect
4 on the state treasury.’” *Id.* at 970 (quoting *Papasan v. Allain*, 478 U.S. 265, 278 (1986)).

5 Here, Plaintiff seeks monetary damages for alleged violations committed by Defendant in
6 her official capacity as a state court judge. Plaintiff also seeks retrospective declaratory relief
7 from a state court judgment issued by Defendant. Accordingly, Plaintiff’s claims against
8 Defendant are barred by the Eleventh Amendment. Thus, Plaintiff fails to state a claim upon
9 which relief can be granted.

10 **IV. LEAVE TO AMEND**

11 Rule 15(a) of the Federal Rules of Civil Procedure “provides that leave to amend should
12 be freely given when justice so requires,” because “the court must remain guided by the
13 underlying purpose of Rule 15 ... to facilitate decisions on the merits, rather than on the pleadings
14 or technicalities.” *Lopez v. Smith*, 203 F.3d 1122, 1127 (9th Cir. 2000) (en banc) (internal
15 quotation marks and citation omitted). As discussed above, Plaintiff’s claims against Defendant
16 are directly based upon Defendant’s actions performed in her role as a state court judge. Because
17 such claims are barred by both the Eleventh Amendment and the doctrine of absolute judicial
18 immunity, the Court finds that amendment would be futile. Accordingly, the Court will
19 recommend that Plaintiff not be given leave to amend.

20 **V. RECOMMENDATIONS AND ORDER**

21 Accordingly, based on the foregoing, IT IS RECOMMENDED that:

- 22 1. Plaintiff’s complaint be dismissed without leave to amend.
- 23 2. The Clerk of Court be instructed to close the case.

24 These findings and recommendations will be submitted to the United States district judge
25 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within twenty-one
26 (21) days after being served with these findings and recommendations, Plaintiff may file written
27 objections with the Court. The document should be captioned “Objections to Magistrate Judge’s
28 Findings and Recommendations.” Plaintiff is advised that failure to file objections within the

1 specified time may result in the waiver of rights on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834,
2 838-39 (9th Cir. 2014) (citing *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

3 In light of these recommendations, IT IS ORDERED that all pleading, discovery, and
4 motion practice in the action are STAYED pending resolution of the findings and
5 recommendations, with the exception that Plaintiff may file objections to the findings and
6 recommendations. Further, the Court VACATES the initial scheduling currently set for March 19,
7 2024. (ECF No. 4).

8 IT IS SO ORDERED.

9
10 Dated: **January 9, 2024**

/s/ Eric P. Grogan
UNITED STATES MAGISTRATE JUDGE